

Office of the Attorney General State of Texas

DAN MORALES
ATTORNEY GENERAL

November 3, 1998

Ms. Tracy Calabrese Assistant City Attorney Legal Department City of Houston P.O. Box 1562 Houston, Texas 77251-1562

OR98-2584

Dear Ms. Calabrese:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 119204.

The City of Houston (the "city") received a request for a specific incident report. You seek to withhold the witnesses' identities under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 incorporates the informer's privilege. This privilege protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 at 3 (1988), 208 at 1-2 (1978). The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." Open Records Decision No. 279 at 2 (1981) (citing Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. See Open Records Decision Nos. 582 at 2 (1990), 515 at 4-5 (1988). Based on your representations, we conclude that the city may withhold most of the highlighted information under the informer's privilege. We have bracketed the information that must be released.

¹Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

June B. Harden

Assistant Attorney General Open Records Division

JBH/ch

Ref.: ID# 119204

Enclosures: Marked documents

cc: Ms. Halina Szymczyk

7807 Sandpiper

Houston, Texas 77074

(w/o enclosures)